

# IPAS & PASRR MANUAL

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## Chapter 6

### APPEALS; IPAS PENALTY; AND CLASS A INFRACTION

#### 6.1 APPEALS, RECONSIDERATIONS, AND JUDICIAL REVIEW

An individual has the right to appeal and request a fair hearing when he/she disagrees with an adverse IPAS determination.

##### 6.1.1 RECONSIDERATION

When there is additional documentation not previously submitted which is pertinent to the reason for denial, the individual may request a "reconsideration." When appropriate, a reconsideration request can avoid the more lengthy, formal appeal process.

The reconsideration process is an informal process designed to provide a quick review of an adverse determination. Reconsideration is only appropriate when pertinent case documentation is available which was NOT submitted for the original determination.

##### 6.1.1.1 Reconsideration Request

OMPP or the State PASRR Unit makes all IPAS or PASRR denial determinations. Reconsiderations will be:

- a) requested through the IPAS agency which processed the IPAS case;
- b) made as soon as the additional documentation is identified, but no later than within thirty (30) days of the effective date of the determination;
- c) submitted by the individual, legal representative, NF, and/or attending physician acting on behalf of the individual.

Reconsideration does not replace the appeals process. An individual requesting a reconsideration will be advised to request an appeal at the same time.

- a) If the reconsideration upholds the original adverse finding, the appeal will proceed.
- b) If the reconsideration reverses the original adverse finding, OMPP or the State PASRR Unit will advise the Hearing and Appeals Section to cancel the appeal request.

##### 6.1.1.2 Process

Upon receipt of a request for reconsideration and the new documentation, the IPAS agency will:

- a) clearly mark each piece of new documentation as such;
- b) add any appropriate comments and recommendations, clearly marked;
- c) place the new documentation on top of a copy of the original case packet;
- d) clearly mark the top of the entire case packet as a "Request for IPAS Determination Reconsideration;" and
- e) resubmit it to OMPP or the State PASRR Unit, as appropriate.

The final determination on reconsideration requests rests with the OMPP or State PASRR Unit. Following review and determination, the appropriate reviewing entity will:

- a) reissue the original PAS 4B determination form, keeping the original date of issue;
- b) clearly mark it as a "RECONSIDERATION DETERMINATION;" and
- c) distribute the case packet with the new determination in the same manner as the original case packet.

##### 6.1.2 APPEAL

An individual who disagrees with the final IPAS determination may appeal the decision. Brief instructions on the process to request an appeal are on the front of the PAS 4B final determination form with more detailed information on the back of the form or on an attached page.

### 6.1.2.1 Appeal Request

To request an appeal, the individual or representative will send a signed letter to the Hearings and Appeals Unit. (Address on PAS 4B form. Contact the IPAS agency for additional information or assistance.)

The letter needs to contain:

- a) the individual's address and a telephone number where the individual can be reached; and
- b) whenever possible, a copy of the final determination form attached to the letter, or a statement of the action being appealed. The individual's responsible party may assist in making the appeal request.

Hearings and Appeals will send a notice of the date, time, and place for the hearing to the individual, the IPAS agency, and OMPP or the State PASRR Unit. At or prior to the hearing, the individual:

- a) will have the right to examine the entire contents of the case record at the IPAS agency;
- b) may represent him/herself or authorize a representative such as an attorney, relative, friend, or other spokesman to do so;
- c) will have full opportunity to bring witnesses, establish all pertinent facts and circumstances, advance any arguments without interference, and question or refute any testimony or evidence presented.

### 6.1.2.2 Process

Hearings and Appeals will notify:

- a) the appropriate IPAS agency when an appeal has been filed and a hearing has been scheduled on an IPAS case in its area; and
- b) OMPP or the State PASRR Unit, as appropriate.

The IPAS agency will prepare two (2) sets of copies of the appellant's case file for submission to the hearing officer and the appellant (or his or her designated representative).

OMPP or the State PASRR Unit will prepare written testimony concerning the basis of its final determination.

This testimony will be provided to the local Medicaid caseworker or DFC designated representative to present at the hearing on behalf of the State. An IPAS agency may be authorized by OMPP or the State PASRR Unit to present information or testimony at a hearing. As an agent of the State for the IPAS and/or PASRR programs, the IPAS agency representative will support the State authority's finding.

An IPAS agency representative may attend a hearing at the request of an individual to represent him or her when the State IPAS or PASRR determination authority has overturned an IPAS agency recommendation of approval. The IPAS agency representative will make it clear that he or she is representing the individual, not the State authority, and that any information or testimony given is made in that capacity.

Following the hearing, the hearing officer will render a finding and written notification will be sent to the individual, the State entity, and other involved entities.

## 6.1.3 ADMINISTRATIVE REVIEW

If either party is in disagreement with the appeal decision, it can request administrative review by FSSA. The determination of the administrative law judge (ALJ) on the appeal is reviewed by the Secretary of FSSA (or an Agency designated representative) prior to submission to judicial review.

## 6.1.4 JUDICIAL REVIEW.

If either party disagrees with the decision after exhausting all administrative remedies, it may obtain judicial review. Information on how to obtain judicial review will be provided to the individual as part of the appeal determination notice.

## 6.2 IPAS PENALTY

Individuals incur a penalty if admitted to or remain in a NF after:

- a) refusal to participate in the IPAS program; or
- b) determination that NF placement is not appropriate.

NOTE: For PASRR, IPAS is a part of PAS/PASRR. It is a violation of the NF's Medicaid participation agreement to admit or retain persons requiring PASRR Level II assessment without IPAS and PASRR compliance, regardless of the IPAS penalty provision

### 6.2.1 Definition

The IPAS penalty consists of ineligibility for Medicaid reimbursement of NF per diem as a covered Medicaid service. It does not render the individual ineligible for Medicaid or other Medicaid covered services.

NOTE: Under Medicaid federal regulations, Medicaid reimbursement can be made only if the individual minimally meets the Medicaid criteria of need for NF services in effect at the time of admission or during the period for which reimbursement is requested, regardless of designee authorization. Appropriately applied designee authorization will only assure that the IPAS penalty is not applied for an individual who meets Medicaid eligibility requirements. It does not guarantee Medicaid reimbursement.

#### 6.2.1.1 Failure to Notify Applicant

As soon as it is determined that the NF failed to provide notice of IPAS participation requirements, an individual:

- a) must be notified of IPAS requirements; and
- b) given the opportunity to complete the Application, choosing whether to participate in IPAS.

(If PASRR Level II is needed, the individual cannot refuse and be admitted to or remain in a Medicaid certified NF.)

NOTE: No time limit is specified in the governing IPAS law or rule for this notification requirement. 460 IAC 1-1-5(k) provides that an individual who was not notified of the requirement for IPAS and who is in a NF may be prescreened after receiving notification of the requirement.

An individual who was NOT notified of the IPAS program requirements by the NF and was admitted will incur no IPAS penalty unless, after receiving notification of the requirement, the individual:

- a) Refuses to participate; or
- b) Participates and is found not appropriate for NF placement, but remains in the NF. The IPAS agency will document the circumstances of an individual who was admitted to the NF without the appropriate IPAS notification, specifying applicable dates.

In this case, the IPAS penalty will be incurred beginning with the date of notification that IPAS is required rather than the date of NF admission.

The IPAS agency will clearly document the circumstances affecting imposition of the IPAS penalty in the case record and on the PAS 4A form and/or the PAS 4B form.

NOTE: Medicaid federal regulations, however, link reimbursement with the timely receipt of necessary documentation to determine eligibility. Substantial delay of such documentation may jeopardize Medicaid reimbursement for all or a portion of the time for which reimbursement is sought, regardless of other authorization(s). [42 CFR 456.260 and 261; 42 CFR 456.360 and 362]

A NF THAT FAILS TO APPROPRIATELY NOTIFY INDIVIDUALS OF IPAS REQUIREMENTS COMMITS A CLASS A INFRACTION. (See Chapter 6.3.)

- ◆ At the time it is determined that an individual was not notified, the IPAS notification will be provided. If the individual agrees to participate in IPAS, the assessment will be completed and a determination rendered as soon as possible, but no later than twenty-five (25) days from application.
- ◆ If the individual refuses to participate, he or she will incur the penalty beginning with the date of notification that IPAS is required. The individual will incur no penalty for the period during which he or she was not notified.

#### 6.2.1.2 Duration

The IPAS penalty lasts for up to one (1) year from the date of admission. In the IPAS law, the time is broken into two (2) levels which were linked to the Medicaid reimbursement system in effect at the time the law was written for:

- a) intermediate care facility (ICF) (470 IAC 5-3-3);and
- b) skilled nursing facility care (SNF) (470 IAC 5-3-2).

NOTE: An individual residing in the NF for more than one (1) year after incurring the penalty may request Medicaid reimbursement for NF per diem. However, the individual must still meet all Medicaid eligibility requirements.

"ICF:" IC 12-10-12-33 imposes a one (1) year period of ineligibility for Medicaid per diem reimbursement from the date of the individual's admission to the NF for an individual who:

- a) Does not participate in IPAS; or
- b) Participates in IPAS, is notified that placement in a NF is not appropriate, but enters or remains in the NF regardless of the IPAS finding.

"SNF:" IC 12-10-12-34 also imposes a period of ineligibility for Medicaid per diem for SNF care which differs from ICF in that it may be imposed for less than the full year.

The SNF penalty applies to an individual who:

- a) refuses to participate in IPAS; or
- b) participates in IPAS and is notified that the individual's placement is not appropriate.

For an individual in need of SNF care:

- a) the penalty will continue only until the individual receives a determination that placement in SNF level of care is appropriate; but
- b) in no case will it last more than one (1) year from the date of admission.

If the IPAS finding is that ICF care is the appropriate level, the provisions of the ICF penalty will continue to apply.

NOTE: OMPP has clarified that, since compliance with IPAS is required in Indiana for NF per diem coverage under Medicaid, Medicaid reimbursement for NF per diem will be withheld for an individual who would otherwise meet "SNF" need for NF services until the individual meets IPAS requirements.

#### 6.2.1.3 Relief of the "SNF" Penalty Period

If an individual :

- a) requires Medicaid NF per diem reimbursement before the expiration of the one (1) year penalty period; and
  - b) is in need of the level of NF services reimbursable under SNF;
- the NF must contact the IPAS agency for directions as soon as possible. The IPAS agency will process an IPAS assessment, clearly noting the circumstances in the IPAS record.

The IPAS penalty:

- a) will be lifted on the date that the individual receives an IPAS determination on PAS Form 4B that SNF placement is appropriate;

- b) applicable time limits of the IPAS penalty period will be specified on the PAS Form 4B; and
- c) the penalty period will be computed to include the period authorized under designee-authorization for temporary stay, except that the penalty will not be "imposed" for the designee-authorized time.

#### 6.2.1.4 Other Provisions

- a) A person admitted to a NF on appropriate designee authorization will not incur the penalty for the authorized period if, regardless of when the determination is made:
  - 1) placement in the NF is determined to be appropriate under IPAS; or
  - 2) the individual is discharged from the NF within fourteen (14) days after receipt of the decision that placement in the NF is inappropriate. This period of time allows for NF discharge planning.
- b) The effective time of the penalty will be computed to include the designee authorized period plus the fourteen (14) days, but the penalty will not be imposed for the period under designee authorization or discharge planning.
- c) The penalty will not be levied against an individual who is eligible for and requires Medicaid Waivered services, but chooses to go into a NF.
- d) The incurred duration period of the penalty continues to be in effect even when an individual leaves the NF during the penalty period and is admitted again before the penalty period has expired.

NOTE: Even though an individual is still under a one-year penalty when he or she seeks readmission to a NF, the NF must follow all IPAS requirements anew. The NF:

- a) will again notify the individual of IPAS requirements;
- b) take a new Application; and
- c) transmit it to the IPAS agency with a full explanation.

The IPAS agency will issue another PAS 4B explaining the status of the new IPAS application.

### 6.2.2 IPAS Agency Role

The IPAS agency will:

- a) receive all Applications (including agreements and refusals to participate);
- b) make appropriate judgments concerning their status;
- c) record and track information;
- d) process the Application; and
- e) when an IPAS penalty has been incurred, issue notice of the penalty on PAS 4B.

#### 6.2.2.1 Tracking Penalties

The IPAS agency is responsible:

- a) for keeping a log of individuals who are under IPAS penalty;
- b) in order to respond to requests from OMPP; and/or
- c) to assure future assessments are not completed for individuals under IPAS penalty.

For individuals who are currently under IPAS penalty, the IPAS assessment will only be completed after:

- a) the penalty has been discharged through an appeal;
- b) it is determined that the penalty was incorrectly imposed; or
- c) there is a claim that the individual needs "SNF" level of NF services.

#### 6.2.2.2 PAS 4B Issuance

When it is determined that the IPAS penalty has been incurred, the local IPAS agency will issue a PAS 4B form which notifies the individual of the penalty and its consequences. For statewide consistency and accuracy, the following statement will be entered on the PAS 4B:

"Your Long-Term Care Services Application (IPAS Application) dated \_\_\_\_\_, which is checked that you do not agree to participate in Indiana's PreAdmission Screening (IPAS)

program, has been received by this office. This notice is to advise you that admission to any Indiana licensed nursing facility without participation in IPAS carries a penalty of non-payment by Medicaid of per diem costs for up to one (1) year. The penalty period may be less if you require skilled nursing care. If you require skilled level of nursing care during this period and wish to participate in IPAS, or if you have any questions concerning this notice, please contact (local IPAS agency information) immediately."

When the PAS 4B is issued by OMPP or the State PASRR Unit, substitute the following sentence for the first sentence:

"There has been an IPAS and/or PASRR determination that your placement in a NF is inappropriate."

Additional information or explanation may be added to the PAS 4B form.

### 6.2.2.3 Penalty Imposition

The IPAS penalty is incurred as specified in Chapter 6.2. It is imposed when an individual who has incurred the penalty applies for Medicaid NF per diem reimbursement during the penalty time period. OMPP will require a copy of the Form PAS 4B when the NF requests Medicaid per diem reimbursement to confirm the status of the individual.

NOTE: Every individual admitted to an Indiana licensed NF will have received a PAS 4 or, for Medicaid Waiver recipients, HCBS 4 issued either by the local IPAS agency, OMPP, or the State PASRR Unit.

### 6.2.3 Medicaid Reimbursement

After the expiration or termination the one (1) year penalty period, an individual may be eligible to receive Medicaid NF per diem reimbursement. The individual will need to meet all other Medicaid eligibility requirements.

NOTE: For instructions concerning an individual who was never notified of the IPAS requirement, see Chapter 6.2.

The NF will submit to OMPP:

- a) a current Form 450B (Sections I-III, Physician's Certification of Need for Long-Term Care Services);
- b) an explanation giving the specific NF admission date to show that the penalty period has expired;
- c) a copy of the original PAS 4B indicating that the IPAS penalty applies;
- d) if applicable for IPAS penalty relief due to SNF need, a copy of the PAS 4B which shows that the individual qualifies for relief from the IPAS penalty due to need for SNF level of care; and
- e) any other documentation required by OMPP to document that the individual meets Medicaid requirements.

### 6.2.4 Waiver of the IPAS Penalty

Under specific conditions, an individual may request a waiver of the IPAS penalty so that he or she can be admitted to the NF before the IPAS determination is rendered.

- a) Only an individual who is being assessed "From Home" may request the IPAS Penalty Waiver.
- b) The Waiver of the IPAS penalty only applies if the IPAS assessment and determination are not completed within the twenty-five (25) day time limit.
- c) If granted, the waiver of the IPAS penalty will only allow the individual to be admitted to the NF prior to the IPAS determination, without incurring the IPAS penalty for the period of time spent in the NF until the IPAS determination is rendered. (See Conditions for a Waiver, Chapter 6.2.4.1.)

Without the waiver of the IPAS penalty, admission to the NF before final IPAS approval may only be done under appropriate designee authorization. Admission without approval nullifies the "waiver" provision and incurs the IPAS penalty.

NOTE: Only the IPAS penalty is waived. All other requirements for NF admission and/or Medicaid reimbursement remain the same. IPAS assessment and determination will be completed as required, regardless of the waiver of the IPAS penalty.

The IPAS penalty Waiver does not apply to PASRR Level II cases.

#### 6.2.4.1 Conditions for a Waiver

The IPAS agency will immediately investigate and document a request for a waiver of the penalty. When requested by the OMPP, the IPAS agency will provide sufficient information to ascertain whether conditions for the waiver request are met.

The following conditions will be investigated and documented by the local IPAS agency:

- a) the applicant made an appropriate IPAS application;
- b) the assessment was subject to the twenty-five (25) day "From Home" provision;
- c) the applicant or his or her representative applied in writing in a timely manner for the waiver to the local IPAS agency;
- d) the application for the waiver was made promptly following the expiration of the 25-day processing time period;
- e) the NF, and hospital if applicable, cooperated in the IPAS assessment promptly;
- f) the applicant, the applicant's physician, the applicant's custodian, and other necessary entities cooperated in the IPAS assessment in a timely manner; and
- g) the IPAS determination was not rendered within the 25-day limit.

If all conditions above are met, the individual qualifies for the waiver of the IPAS penalty and will not be penalized for admission to the NF without IPAS prior approval or designee authorization.

#### 6.2.4.2 Processing a Waiver Request

The request is made to the local IPAS agency. The IPAS agency will immediately compile the documentation for the request. The documentation of the criteria in Chapter 6.4.2.1 will be sent in a timely manner to the entity responsible for the final IPAS determination: OMPP or the IPAS agency.

As soon as the investigation is complete, the IPAS agency will immediately forward the request and the investigation results to OMPP, which will review all documentation and, either:

- a) issue the IPAS case determination; or
- b) if all conditions are met, issue a waiver of the IPAS penalty.

OMPP will::

- a) render the decision within two (2) working days following receipt of the waiver request;
- b) if given verbally, immediately issue the decision in writing;
- c) maintain written documentation on the waiver decision for a period of not less than three (3) years; and
- d) send a copy of the decision to the applicant or his or her representative, the NF, and the appropriate IPAS agency.

### 6.3 CLASS A INFRACTION

Indiana Code (IC 12-10-12) establishes specific functions to be performed by NFs under burden of committing a "Class A infraction." IC 34-4-32-4 establishes that a judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

#### 6.3.1 NF Notification Requirements

IC 12-10-12-6 specifies that a NF will provide notification of the IPAS requirements for NF admission to an individual or the individual's parent or guardian. IC 12-10-12-9 states that the "notification" required will be in writing on standardized forms prepared by DDARS and provided to NFs. The applicable forms are the "Long-Term Care Services Application" form and the IPAS Information Sheet.

The required notification (IPAS Information Sheet) will apprise the applicant that the:

- a) applicant is required under State law to apply to the local IPAS agency for participation in Indiana's Pre-Admission Screening (IPAS) program;
- b) applicant's failure to participate in IPAS could result in the applicant's ineligibility for Medicaid reimbursement for NF per diem in any NF for not more than one (1) year;
- c) IPAS program consists of an assessment of the applicant's need for care in a NF made by a team of individuals familiar with the needs of individuals seeking admission to a NF.

The notification will be signed prior to admission by the applicant or the applicant's designated representative, if the applicant is not competent.

If the applicant is admitted, the NF will:

- a) retain one (1) signed copy of the notification for one (1) year; and
- b) deliver the signed application to the local IPAS agency.

460 IAC 1-1-6(c) requires that the NF forward a copy to the IPAS agency within five (5) working days from the date of signature or, if the individual is admitted to the NF, from the date of admission. 460 IAC 1-1-6(d) makes the NF responsible for providing verification that:

- a) the application for IPAS was made prior to admission;
- b) an applicant admitted prior to final determination had designee authorization; and
- c) the application and other designated documentation were forwarded to the IPAS agency within five (5) working days from the date of designee authorization.

Failure of an administrator, or the members designated to the governing body of the NF to ensure compliance with IPAS notice requirements, constitutes a Class A infraction.

Indiana Administrative Code, 460 IAC 1-1-6(d), clarifies that the NF is responsible for providing verification that:

- a) the application for IPAS was made prior to admission;
- b) an individual admitted prior to the IPAS determination had appropriate designee authorization for admission, as required; and
- c) the copy of the application and other designated documentation were promptly forwarded to the IPAS agency.

### 6.3.2 Applicant Never Notified

IPAS rules specify that an individual who was not notified of the requirement for IPAS assessment and who is in a NF may be prescreened after receiving notification of the requirement. There is no time limit to this requirement. (See Chapter 6.2.1.1.)

### 6.3.3 Refusal to Sign Application

Also see Chapter 2.6.3.

The applicant or the applicant's designated representative may refuse to sign the IPAS Application after the NF gives notice. To document that notification was given, the NF's administrator or designee will clearly note the circumstances on the IPAS Application form, sign and date it. The applicant's name, address, and necessary identifying information need to be included on the IPAS Application form.

The NF will promptly send the unsigned, annotated IPAS Application form to the local IPAS agency in the same manner as if it had been signed. The IPAS agency will process it as a "refusal to participate." If the individual is admitted to the NF, a notation must be made on the PAS 4B regarding the IPAS penalty.

The IPAS agency must also make the certification of need for Level II at the bottom of the Level I. If the individual needs Level II, a Medicaid-certified NF will be in violation of its Medicaid certification agreement to admit the individual or allow him/her to remain.

NOTE: An IPAS Application will be submitted to the local IPAS agency for every individual admitted to a NF. This includes applications for "agree to participate," "refuse to participate," and "refuse to sign." The IPAS agency will issue a PAS 4B form for every Application form received.

#### 6.3.4 IPAS Agency Report

460 IAC 1-1-7(14) requires the IPAS agency:

- a) to report Class A Infractions to the prosecuting attorney serving the county of the NF (460 IAC 1-1-6);
- b) regardless of the prosecuting attorney's action on the report.

All such reports become a matter of public record and a copy of the report will become part of the case record.

##### 6.3.4.1 Determination of Infraction

The IPAS agency will base the determination of a Class A infraction on requirements in 6.3.1, above.

##### 6.3.4.2 Progressive Action

Occasionally, circumstances beyond the NF's control may dictate a more moderate approach to the reporting requirement. The IPAS agency will judge whether the following progressive steps are appropriate to address the report of a Class A infraction for a particular NF.

NOTE: This procedure can not be used with NFs that have a demonstrated history of non-compliance with IPAS requirements. NFs which frequently ignore or refuse to comply with laws and regulations will be reported to OMPP for further action. A copy will also be sent to the County Prosecuting Attorney. (See Chapter 6.3.4.3 on Tracking.)

- a) On the first violation, the IPAS agency may give the NF a verbal warning including a stipulation that the NF will secure training on the IPAS program requirements from the local IPAS agency. It is the responsibility of the NF to assure that training is provided to appropriate NF staff.

The IPAS agency will document in its records that the verbal warning was given, including the reason for the use of the progressive reporting procedure.

- b) The second violation requires a written warning from the IPAS agency to the NF administrator with courtesy copies to the owner/corporate level staff. The warning notice will document:
  - 1) the prior verbal warning;
  - 2) whether the required IPAS training was secured with details of the training; and
  - 3) a requirement for the NF to obtain additional IPAS training.
- c) Further violations require a written report by the IPAS agency, on standardized forms, to the county prosecuting attorney. Specific reference to or copies of the warnings from the first two steps will be included or attached to report.

This progressive system will only be used when there is demonstrable evidence that the NF had a reasonable excuse for the non-compliance.

Whatever action is pursued, the IPAS agency will record in its files the nature of the action and the reason(s) for the selection of a particular approach for audit and accountability purposes. A copy of the correspondence will be placed in the individual's case record.

##### 6.3.4.3 Report Format

To maintain consistency, all IPAS agencies will utilize the State designated format, on the agency's letterhead, to report the Class A infraction. This format has been reviewed and approved by the FSSA Office of General Counsel to assure that it meets IPAS requirements. (See Appendix Q.)

The report will specify the NF administrator, or the members designated to the NF governing body, as the individual held responsible for ensuring compliance with notice requirements. When applicable, the report will be carbon copied to the NF's owners, corporate office, board, ISDOH, etc.

#### 6.3.4.3 Documentation, Notification, and Tracking

In order to validate timely submission of the Application to the IPAS agency, the IPAS agency will stamp the date received on each Application form, Level I, and other pertinent documents.

Reports of Class A infractions will be documented in the individual's case record. The IPAS agency will also track the occurrence of Class A infractions by NFs, including the type of action taken by the IPAS agency.

If mail problems or other processing procedures are consistently being claimed as the reason Applications are missing or not received, the NF should make a follow-up phone call to the IPAS agency a few days after mailing to assure that the Application is received at the IPAS agency office.

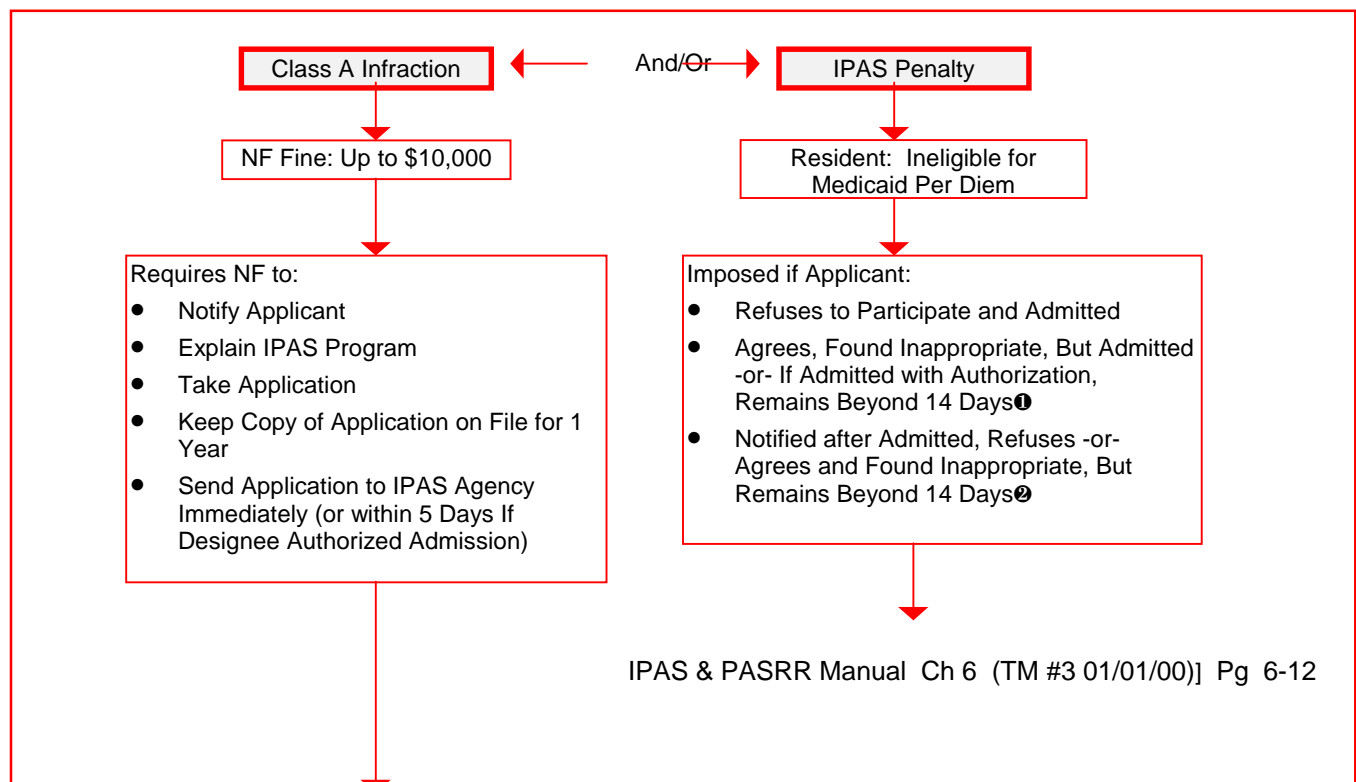
A courtesy copy of the report of a "Class A infraction" will be sent to:

- a) the NF administrator, the owner and/or corporate office, the designated NF governing body: and
- b) the applicant or designated representative, as indicated.

Persistent problems of non-compliance will also be referred to the Indiana Department of Health, Division of Long-Term Care, the NF Ombudsman, and/or, if appropriate, APS.

Continuous and persistent Class A Infractions by a NF should be reported to OMPP and the State IPAS program.

#### COMPARISON OF CLASS A INFRACTION AND IPAS PENALTY Chapter 6



NOTE: If Not Notified, Will Incur No Penalty Until Notified and Either:  
① Refuses; or ② Remains after Finding of Not Appropriate. Penalty Begins with Date of Determination Notification.

IPAS Agency Notify County  
Prosecuting Attorney

“ICF”<sup>③</sup> Penalty:  
Ineligible for 1 Year  
from Date of Admission  
(IC 12-10-12-33)<sup>④</sup>

“SNF”<sup>⑤</sup> Penalty: Ineligible Until  
Participates in IPAS and Notified  
SNF Appropriate, But No Longer  
than 1 Year  
(IC 12-10-12-34)<sup>⑥</sup>

① 460 IAC 1-1-14(b): Allows 14 days for NF discharge planning for person temporarily admitted to NF under designee authorization who placement is determined to be inappropriate.

② An individual not notified of the IPAS requirement will incur no penalty, unless the individual refuses to be screened after notification or is found to be inappropriate for NF services, in which case the individual will incur the penalty beginning with the date of notification that IPAS is required. [460 IAC 1-1-14(d)]

③ Refers to intermediate (I) care in a NF.

④ Admission: A person is admitted to a NF as soon as that individual is physically present in the NF, unless the admission is designee-approved. A person approved by a designee is considered admitted twenty-four (24) hours after entering the NF. (460 IAC 1-1-2) The time of the IPAS penalty will be computed to include the period of authorization, but will not be imposed for such designee authorized time. [460 IAC 1-1—14(c)]

⑤ Refers to skilled (S) care in a NF.

⑥ IC 12-10-12-34 allows an individual needing the level of NF services previously designated SNF, who refused IPAS at NF admission, to decide to agree and be IPAS assessed. If skilled NF placement is determined to be appropriate, the remainder of the IPAS penalty will be lifted effective when the individual receives the determination on the PAS 4B form. In no case will the IPAS penalty last more than one (1) year from the date of NF admission. [460 IAC 1-1-14(c)]

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